

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CLARENCE MILLER
Plaintiff,

vs.

NORTHWEST HARRIS COUNTY
MUD NO. 24

Defendant.

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CIVIL ACTION NO. _____
Jury Demanded

PLAINTIFF’S ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

NOW COMES, Clarence Miller, individually, and files his Plaintiff’s Original Complaint.

A. SUMMARY

1. There is a proceeding against Defendant for violating the overtime pay provisions of the Fair Labor Standards Act of 1938, 29 U.S.C. §201 et. seq. (or “FLSA”). Defendant employed the Plaintiff as a regional buyer. Defendant failed to pay Plaintiff overtime as required by the Fair Labor Standards Act (“FLSA”).

The Plaintiff regularly worked in excess of 40 hours per work week. Plaintiff was misclassified as an exempted employee and informed that she was not entitled to overtime. The failure to pay the Plaintiff at one-and-one half times her hourly rate for hours over forty in a workweek is a plain, simple violation of the FLSA.

For these reasons, Plaintiff seeks unpaid wages, liquidated damages, attorney fees, and all other relief permitted.

B. PARTIES

2. Plaintiff, Clarence Milleris an individual and a resident of the state of Texas. Plaintiff brings his action on behalf of himself pursuant to 29 U.S.C. §216(b). Plaintiff worked as a general manager for Defendant, Northwest Harris County MUD No. 24. Plaintiff is a former employee of Defendant, who was paid an annual salary for nearly seven years.

3. Defendant, Northwest Harris County MUD No. 24 is a Municipal Utility District, a political subdivision of the State of Texas authorized by the Texas Commission of Enviromental Quality to provide water, sewage, drainage, and other utility-related services within the specified district.

Defendant constitutes an “employer” within the meaning of 29 U.S.C. §203(d). Defendant may be served with summons by serving its president of the board: Darryl Simon, 14446 Hollister Road, Houston, Texas 77066

C. JURISDICTION

4. The court has federal question jurisdiction, 28 U.S.C. §1331, over Plaintiff’s claims of unpaid overtime, because these actions arise under federal law, via the Fair Labor Standards Act of 1938, 29 U.S.C. §201 *et seq.* Venue is proper because a substantial part of the events or omissions giving rise to the claim occurred in her District, and Defendants are subject to personal jurisdiction in Texas.

D. FACTS

5. Plaintiff is a former employee of Defendant.

6. Plaintiff was hired by Defendant as a general manager to assist in the daily activities associated with the Northwest Harris County MUD No. 24, the residents of Northwest Harris County MUN No. 24 and operations of the office building.

7. During the last three years of his employment, Plaintiff regularly worked 20-30 hours of overtime each week.

8. At all time relevant, Plaintiff was a non-exempt employee pursuant to the FLSA. However, Defendant misclassified Plaintiff as an exempt employee.

9. At all times, relevant to his lawsuit, the Plaintiff's responsibilities included attend activities, hire additional help with required approval of the board, update supply log, log records of the events and activities, and advise the board on water code violations.

10. At Defendant's direction, and for the benefit of Defendant, Plaintiff regularly worked in excess of 40 hours per work week.

11. Defendant did not compensate Plaintiff, Clarence Miller for all the overtime and regular time wages he was owed.

E. COUNT 1: VIOLATION OF FLSA: UNPAID OVERTIME

12. As illustrated above, Defendant maintained a practice of requiring Plaintiff, a misclassified nonexempt employee, to work more than 40 hours per workweek. For failing to pay Plaintiff for corresponding earned overtime, Defendant violated the provision of the federal Fair Labor Standards Act, 29 U.S.C. §201 *et seq.* As a result of the unlawful practices, Plaintiff suffered a loss of wages.

13. All conditions precedent to the filing of her suit has been satisfied.

G. JURY TRIAL DEMANDED

14. Plaintiff asserts her rights under the Seventh Amendment to the U.S. Constitution and demand, in accordance with Federal Rule of Civil Procedure 38, a trial by jury on all issues.

H. PRAYER FOR RELIEF

15. For the above reasons, Plaintiff seeks judgment against Defendant for the following:

- a. Judgment against Defendants for an amount equal to Plaintiff's unpaid back wages at the applicable overtime rate for each hour worked over forty, 29 U.S.C. §216(b);
- b. An equal amount to the wage damages as liquidated damages, 29 U.S.C. §216(b) and/or prejudgment interest;
- c. Application of the three-year statute of limitations for willful FLSA violations, 29 U.S.C. §255(a);
- d. Attorney's fees and costs of suit pursuant to 29 U.S.C. §216(b); and
- e. All other relief the court deems necessary and appropriate.

Respectfully submitted,

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